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April 19, 2024

Mr. Robert Ghiglieri
Administrator
Division of Minerals
400 West King Street, Suite 106
Carson City, NV 89703

Re: LCB File No. R134-23

Dear Mr. Ghiglieri,

A regulation adopted by the Commission on Mineral Resources has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675 as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

A handwritten signature in black ink, appearing to read "Asher A. Killian".

Asher A. Killian
Legislative Counsel

Daniel Peinado
Senior Deputy Legislative Counsel

Erin R. Sturdivant
Senior Principal Deputy Legislative Counsel

RECEIVED

APR 23 2024

DIVISION OF MINERALS

AAK/amh
Enclosure

SECRETARY OF STATE
FILING DATA

**Form For Filing
Administrative Regulations**

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Agency COMMISSION ON
MINERAL RESOURCES

R134-23

FILED, NV, SOS
2024 APR 13 AM 8:38

Governor's signature

Classification: **PROPOSED** **ADOPTED BY AGENCY** **EMERGENCY**

Brief description of action: Amend regulation NAC 534B to provides clarity and removed unnecessary requirements as outlined under executive order 2003-003.

Authority citation other than 233B NRS 513.063 (5) and NRS 534B.120

Notice date February 15, 2024

Hearing date February 15, 2024

Date of Adoption by

Agency February 27, 2024

**APPROVED REGULATION OF THE
COMMISSION ON MINERAL RESOURCES**

LCB File No. R134-23

Filed April 19, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1 and 2, NRS 534B.120.

A REGULATION relating to dissolved mineral resources; eliminating requirements that a well driller be present at the site of certain drilling at all times when a drill rig is in operation; revising requirements relating to the removal of any pipe or tubing used for ground control or sampling; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Commission on Mineral Resources to adopt regulations governing the drilling and operation of dissolved mineral resource exploration wells and dissolved mineral resource exploration boreholes. (NRS 534B.120) Existing regulations require a person who drills wells to be present at the site of the drilling of a dissolved mineral resource exploration borehole or dissolved mineral resource exploration well at all times when the drill rig is in operation and when any activity involving the construction, reconditioning or plugging of the borehole or well is conducted. (NAC 534B.100) **Section 1** of this regulation eliminates the requirement that the well driller be present at the site of the drilling at all times when the drill rig is in operation.

Existing regulations require any pipe or tubing used for ground control or sampling to be removed by a well driller before plugging a dissolved mineral resource exploration borehole. (NAC 534B.125) **Section 2** of this regulation instead requires a well driller to use his or her best efforts to remove the pipe or tubing before plugging the borehole.

Section 1. NAC 534B.100 is hereby amended to read as follows:

534B.100 A well driller:

1. Must be:

(a) Licensed to drill wells pursuant to NRS 534.140; and

(b) Present at the site of the drilling of a dissolved mineral resource exploration borehole or dissolved mineral resource exploration well ~~at all times when the drill rig is in operation and~~ when any activity involving the construction, reconditioning or plugging of the borehole or well is conducted. If the Division determines that drilling operations occurred during any period in which a well driller was not present at the site:

(1) The Division may order the drilling operation to cease and conduct an investigation; and

(2) The drilling operation may not recommence until the Division approves the commencement of the drilling operation.

2. Shall ensure that the drilling of the dissolved mineral resource exploration borehole or dissolved mineral resource exploration well complies with:

(a) The terms and conditions of the notice of intent approved by the Division or permit issued by the Division, as applicable; and

(b) The requirements of all federal, state and local agencies which have jurisdiction over the land on which the dissolved mineral resource exploration borehole or dissolved mineral resource exploration well is drilled.

3. Shall carry his or her well-drilling license when he or she is present at the site of the drilling and produce the license when requested to do so by a representative of the Division.

4. Shall have in his or her possession at the site of the drilling the documentation of the approval by the Division of the notice of intent to drill or a permit issued by the Division, as

applicable, and shall produce such documentation upon request by a representative of the Division.

Sec. 2. NAC 534B.125 is hereby amended to read as follows:

534B.125 1. A dissolved mineral resource exploration borehole must be plugged by a well driller not later than 60 days after the borehole is drilled unless an application for a permit for a dissolved mineral resource exploration well is filed not later than 60 days after the completion of the drilling of the borehole.

2. If an application for a permit for a dissolved mineral resource exploration well is denied by the Division, the dissolved mineral resource exploration borehole must be plugged not later than 30 days after the date that the Division denies the application for the permit.

3. ~~Any~~ *A well driller shall use his or her best efforts to remove any* pipe or tubing used for ground control or sampling ~~must be removed by the well driller~~ before plugging a dissolved mineral resource exploration borehole.

4. A dissolved mineral resource exploration borehole must be plugged:

(a) Except as otherwise provided in subsection 5, if the uppermost saturated groundwater layer is above the bottom of the borehole:

(1) By placing concrete grout, cement grout, neat cement or bentonite grout by tremie pipe in an upward direction from the bottom of the borehole to within 20 feet of the surface and by placing concrete grout, cement grout, neat cement or bentonite grout from 20 feet below the surface to the surface;

(2) By placing bentonite chips specifically designed to plug boreholes from the bottom of the dissolved mineral resource exploration borehole to within 20 feet of the surface and by

placing concrete grout, cement grout or neat cement from 20 feet below the surface to the surface; or

(3) By placing any of the plugging material described in this subsection from the total depth of the dissolved mineral resource exploration borehole to 50 feet above the uppermost saturated groundwater stratum and by placing concrete grout, cement grout or neat cement from 20 feet below the surface to the surface.

(b) If the uppermost saturated groundwater stratum is below the bottom of the dissolved mineral resource exploration borehole by:

(1) Backfilling the dissolved mineral resource exploration borehole from the bottom of the borehole to within 20 feet of the surface with uncontaminated soil; and

(2) Placing concrete grout, cement grout or neat cement from 20 feet below the surface to the surface.

5. If the concrete grout, cement grout, neat cement, bentonite grout or bentonite chips are not brought to within 20 feet of the surface pursuant to paragraph (a) of subsection 4, the well driller must:

(a) Measure the depth of the top of the lower plug with the appropriate equipment after he or she has allowed sufficient time for the lower plug to set up;

(b) Continue to install concrete grout, cement grout, neat cement, bentonite grout or bentonite chips until the top of the lower plug remains at least 50 feet above the top of the uppermost saturated groundwater stratum;

(c) Install uncontaminated fill material or concrete grout, cement grout, neat cement, bentonite grout or bentonite chips from the top of the lower plug to within 20 feet of the surface; and

(d) Place concrete grout, cement grout or neat cement from 20 feet below the surface to the surface.

6. If bentonite chips or uncontaminated soil are placed in the dissolved mineral resource exploration borehole, the chips or soil must be screened to eliminate the fines. The bentonite chips must be placed in the dissolved mineral resource exploration borehole by tremie pipe.

7. If there is evidence that water-draining formations or water-bearing formations of different water quality or hydraulic head were encountered during the original construction of the dissolved mineral resource exploration borehole and bentonite chips or bentonite grout is used as the plugging material, the well driller must, in addition to any other applicable requirements of this section, place neat cement across the water-confining formations so that the plugging fluid penetrates the geologic formation to prevent the vertical movement of water. Any pipe or tubing that does not break free and occludes the placement of neat cement across a water-confining formation must be perforated so that the plugging fluid penetrates the annular space and the geologic formation in that interval to isolate formations and to protect the fluids in those formations from interzonal migration.

8. The owner and lessor of the land on which a dissolved mineral resource exploration borehole is located, the operator and the well driller are jointly and severally responsible for plugging a dissolved mineral resource exploration borehole.

9. A plugging report must be filed with the Division not later than 30 days after the plugging of the borehole is completed by the well driller or operator, on a form designated by the Division, and signed by the well driller. The report must include, without limitation, documentation that the dissolved mineral resource exploration borehole was properly plugged.

10. The Division shall post all plugging reports for dissolved mineral resource exploration boreholes on the Internet website of the Division.



JOE LOMBARDO
Governor

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COMMISSION ON MINERAL RESOURCES
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ROBERT GHIGLIERI
Administrator

Las Vegas Office: 375 E. Warm Springs Rd. #205, Las Vegas, NV 89119
Phone: (702) 486-4343, Fax: (702) 486-4345

February 27, 2024

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS
233B.066**

LCB FILE R134-23

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 534B.

1. A clear and concise explanation of the need for the adopted regulation.

The proposed amendment for this regulation provides clarity within NAC 534B.100 and removed unnecessary requirements under 534B.125.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

After Governor Lombardo signed Executive Order 2003-003 the Division of Minerals sought feedback from industry on the various regulations within the agency's jurisdiction and two areas were identified under NAC 534B. A public workshop was held on April 17, 2023 with four members of the public in attendance. On May 1st, 2023 The Division submitted the EO-003 report identifying only recommended moving forward with the two amendments under NAC 534B.

A Public workshop was held on December 12, 2023 in Carson City. No public comments were given, but some minor edits were made to the suggested amendments by the Commission on Mineral Resources. The Division submitted the proposed regulation updates to LCB in December 2023 and received LCB File Number R134-23 back in January 2024. A notice of intent to act upon a regulation was held on February 15, 2023 in Las Vegas Nevada. No public comment was given on the proposed regulations.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were made available at the website of the Nevada Division of Minerals website, <https://minerals.nv.gov/>, Nevada Public Notice website at <http://notice.nv.gov>,

Nevada Legislature <https://www.leg.state.nv.us/App/Notice/A/> website, and posted at the following locations:

- Division of Minerals, 400 W. King St. Suite 106, Carson City, Nevada
- Division of Minerals, 375 E. Warm Springs Suite 205, Las Vegas, Nevada
- Nevada State Legislature, 401 S. Carson St., Carson City, Nevada
- Grant Sawyer Building, 555 E. Washington Ave, Las Vegas, Nevada
- Nevada State Library and Archives, 100 N. Stewart St, Carson City, Nevada

3. The number persons who:

Attended each hearing: April 17, 2023 – 4; December 12, 2023 - 0; February 15, 2023 – 0.

Testified at each hearing: April 17, 2023 – 0; December 12, 2023 - 0; February 15, 2023 – 0.

Submitted to the agency written comments: No written comments were submitted.

4. No public comments were given by any attendees in the April 17th, hearing and resulted in no list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted on February 27th, 2024 and without any changes after the Commission on Mineral Resources meeting on February 15th, 2024. There were no recommended changes by the Commission on Mineral Resources or public and the regulations were adopted at a later date due to agency scheduling.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- Both adverse and beneficial effects; and
- Both immediate and long-term effects.

Both adverse and beneficial effects

There are no adverse effects to the proposed changes and will have a small beneficial effect reducing the time needed for a licensed well driller to be onsite when the rig is not in operation.

Both immediate and long-term effects.

Both immediate and long-term effects will be a small impact to the operators.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed regulation duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations that that are more stringent than the modified regulations.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide a new fee or increase an existing fee.